

## Exhibit 1

**IN THE CIRCUIT COURT OF LEWIS COUNTY, WEST VIRGINIA**

**JAMES R. STUTLER, JR.**

**PLAINTIFF,**

**vs**

**CIVIL ACTION NO. 10-C-88**

**TEREX CORPORATION,**

**DEFENDANT.**

LEWIS COUNTY, WV  
FILED  
2010 OCT - 1 AM 9:04  
JOHN B. MINZMAN  
CIRCUIT CLERK

**COMPLAINT**

Comes now the Plaintiff, James R. Stutler, Jr. and for his Complaint in this matter states as follows:

1. That the Plaintiff, James R. Stutler, Jr. is a resident of Lewis County, State of West Virginia.
2. That the Defendant, Terex Corporation is a Corporation licensed to do business by the West Virginia Secretary of State and at all times relevant hereto was doing business in the State of West Virginia.
3. That the Defendant is manufacturer of heavy equipment that is used by the West Virginia Department of Highways for purposes of road repair and maintenance.
4. That the Plaintiff, James R. Stutler, Jr. for all times relevant hereto was a employee of the West Virginia Department of Highways and was working in the Lewis County, West Virginia office.
5. That on or about October 6, 2008, the Plaintiff, James R. Stutler, Jr., was operating a Terex roller machine and was working on an area of the highway that

was situate in Lewis County, West Virginia.

6. That part of the highway on the edge of the road gave in causing the Terex roller and the Plaintiff to fall down a hillside at which time the Terex roller did not land in a vertical position.
7. That the Plaintiff had fallen off the Terex roller while it rolled down the hill and received significant injuries due to the fall which included but not limited to various broken bones and other injuries.
8. The Terex roller which was produced by the Defendant herein did not shut its motor off when the Terex roller was not vertical. The same caused the Terex roller to continue operation and spew boiling oil onto the body of the Plaintiff herein.
9. That failure of the Defendant to provide for an adequate mechanism to shut the Texex roller motor off when it was no longer upright constitutes an act of negligence as the Defendant produced and placed into commerce a product that was not safe for operation.
10. That as a direct and proximate result of the Defendant's negligent in producing the defective Terex roller, the Plaintiff herein suffered severe injuries including third degree burns to his body which required substantial medical care, rehabilitation, and which further resulted in permanent scarring. Further, as a direct and proximate result of the aforesaid act of negligence by the Defendant, the Plaintiff suffered extreme pain and suffering, mental anguish, and annoyance and inconvenience as a result of his injuries.


11. That the Defendant produced and placed unsafe products into the market place.

Accordingly, it is liable to the Plaintiff for the injuries that he suffered as result of the same.

WHEREFORE, the Plaintiff prays that he be awarded a judgment in this matter to compensate him for his injuries that he has received including pain and suffering, annoyance, inconvenience, and mental anguish. Further, that he be awarded his attorney fees and costs in bringing this action and such other relief as the Court deems appropriate and just.

Plaintiff demands a trial by jury.

James R. Sutler, Jr., Plaintiff  
By Counsel



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